



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

PENNY R. MCELROY,
Plaintiff,

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security,
Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 0:09-234-HFF-PJG

ORDER

This case was filed by Plaintiff pursuant to 42 U.S.C. § 405(g) to obtain judicial review of a final decision of Defendant denying Plaintiff's claim for Disability Insurance Benefits. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendant's decision be reversed pursuant to sentence four of 42 U.S.C. § 405(g) and that the case be remanded to Defendant for further administrative action as set forth in the Report. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 19, 2010, and Defendant filed his objections on April 27, 2010. Plaintiff did not file any objections. The Court has carefully considered the objections of Defendant, but agrees with the Magistrate Judge's comprehensive and well-reasoned Report recommending that Defendant's decision should be reversed and remanded to Defendant for further consideration of Plaintiff's claim. Therefore, it will enter judgment accordingly.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Defendant's objections, adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that Defendant's decision be **REVERSED** pursuant to sentence four of 42 U.S.C. § 405(g) and that the case be **REMANDED** to Defendant for further administrative action as set forth in the Report.

IT IS SO ORDERED.

Signed this 28th day of April, 2010, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE